

REMARKS/ARGUMENTS**§ 103 Rejections**

The Examiner has rejected claims 1-2 and 45 under 35 USC § 103(a) as being unpatentable over Bostrom et al. (5,046,912). Applicant traverses.

Applicant is presently claiming a system for transporting “moist grain by-products” and Bostrom et al. does not describe such products. Moreover, the Examiner acknowledges that “Bostrom et al. does not explicitly state that the material is moist grain by-products” (August 27, 2004, office action). Thus, at least one of the features of the claims is not present in the cited art. To address the fact that at least one of the features of the claim is not present in the art, the Examiner asserts that “it would have been obvious for one of ordinary skill in the art at the time the invention to have modified Bostrom et al’s process to include moist grain by-products, as this is simply a particular type of grain”. Applicant disagrees. As provided in Dr. Michael Lewis’ accompanying declaration, moist grain by-products are not simply a particular type of grain. Because these products are not simply a particular type of grain they do not necessarily have the same handling properties as grain and therefore, the disclosure provided in Bostrom et al. does not render the claims obvious.

Accordingly, the rejection of claims 1 - 2 and 45 under 35 USC § 103(a) as being unpatentable is overcome and should be withdrawn.

Claim 3 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom et al in view of Wymer et al (US 4,823,708). Applicant traverses.

Claim 3 depends from claim 2. Claim 3 adds additional features to claim 2 and the additional citation of the Wymer et al reference fails to make up for the deficiencies of the Bostrom et al reference. Therefore, claim 3 is patentable.

Accordingly, the rejection of claim 3 as being unpatentable is overcome and should be withdrawn.

Claims 4-7 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom et al in view of Auld et al (US 1,496,196). Applicant traverses.

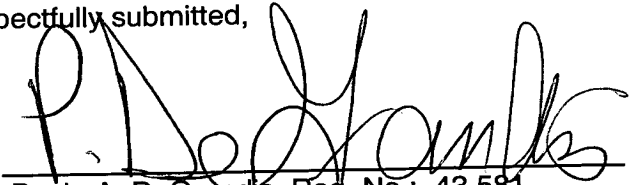
Claims 4 and 5 add additional features to claim 2, and claims 6 and 7 are directed in part to “A method of supplying a bulk quantity of moist cereal grain by-product using rail transport, the method comprising: loading a bulk quantity of moist cereal grain by-product into an invertible railroad container to provide a railroad container containing cereal grain by-product...” Applicant asserts that for the reasons provided above, mainly that the Bostrom et al. does not teach or suggest moist grain by-products these claims are patentable. Moreover, the additional citation of the Auld et al. reference fails to make up for the deficiencies of the Bostrom et al reference. Therefore, claims 4-7 are patentable.

To further facilitate the Examiner's review of this case Applicant can make a sample of the moist grain by-product available for review. Please call Applicant's attorney at the phone number given below to arrange for viewing the sample.

It is submitted that the Present Application is in a condition for allowance. On entry of this Reply, claims 1-8 and 45 will be pending in the Present Application. The Applicant respectfully requests reconsideration and allowance of all pending Claims.

Respectfully submitted,

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